

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

JACQUELINE M. WOLD

Claimant

VS.

CITY OF OVERLAND PARK

Self-Insured Respondent

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Docket No. 1,013,612

ORDER

The self-insured respondent requests review of the January 26, 2006 preliminary hearing Order entered by Administrative Law Judge Kenneth J. Hursh.

ISSUES

Claimant filed her original application for hearing with the Division of Workers Compensation on October 30, 2003. She alleged repetitive bilateral upper extremity injuries during a specified time period and continuing each and every day worked. After a preliminary hearing held December 15, 2003, the Administrative Law Judge (ALJ) ordered respondent to provide medical treatment for claimant's right upper extremity.

On January 16, 2004, claimant filed an amended application for hearing again alleging bilateral upper extremity injuries and specifically noting that the right upper extremity was initially injured but symptoms had developed in the left upper extremity. Claimant received treatment for her right upper extremity and returned to work. As she continued working the symptoms in her left upper extremity worsened. The claimant requested treatment for her left upper extremity and a second preliminary hearing was held on January 25, 2006.

The ALJ found the claimant sustained her burden of proof that she has suffered left carpal tunnel syndrome due to her work-related injury.

The respondent requests review and argues claimant has suffered a new separate accidental injury to her left upper extremity but claimant failed to file a separate application for hearing for the new accident. Respondent further argues because claimant failed to file a separate claim for her new accident the ALJ's Order should be vacated.

Claimant argues the ALJ's Order should be affirmed.¹

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the whole evidentiary record filed herein, the Board makes the following findings of fact and conclusions of law:

Jacqueline Wold has been employed as a police officer with the police department since March 23, 1998. As she performed her job duties as a patrol officer she developed problems in her upper extremities. In a letter from Dr. Lynn D. Ketchum dated December 16, 2004, claimant's medical history was detailed in pertinent part:

In approximately 1999, she [claimant] began having problems with her right hand while driving. Later the left began having problems with numbness and tingling, which awakened her at night. She saw Dr. Foos, who obtained an EMG on the right, which showed moderately positive right carpal tunnel syndrome. She was treated with splints and her condition continued to progress. On October 3, 2009, [sic] she had a right carpal tunnel release by Dr. Joel Lane. Since surgery, she has had no symptoms on the right.

She has had no surgery on the left and the left has not been studied electrophysiologically. She has symptoms on the left of waking her up two to three times a month with tingling in the radial three digits. She did sleep with her wrist flexed under her chin but does not do that anymore, although it may be slightly extended. I told her that if this increases to the point where she has numbness two to three times a week, she should wear a splint to keep the left wrist in neutral. This does not bother her during the day.²

The letter further noted that Dr. Ketchum performed nerve conduction studies on claimant's left wrist and determined the results were within normal limits. The doctor released claimant from further treatment without restriction and rated her right upper extremity.

Claimant testified that as she continued working the symptoms in her left upper extremity worsened. And when she was experiencing more severe problems with her right upper extremity she used her left arm more. After claimant was examined by Dr. Ketchum in December 2004 she did not receive any treatment for her left upper extremity but she followed his recommendation to wear a splint at night when necessary.

¹ Claimant's brief contains a request that an order be entered requiring respondent to reimburse claimant for unauthorized treatment with Dr. Ketchum or that it be ordered as authorized. This request was not made to the ALJ at preliminary hearing and consequently will not be considered by the Board.

² P.H. Trans. (Jan. 25, 2006), Cl. Ex. 1.

In November 2005 claimant returned to Dr. Ketchum with complaints of an exacerbation in her left hand symptoms. Dr. Ketchum again performed a nerve conduction test and noted claimant's condition had changed since his last test. It was now positive for carpal tunnel syndrome. The doctor recommended claimant undergo a left carpal tunnel release and he further opined the condition was caused by claimant's work.

Respondent argues claimant suffered a new separate and distinct injury to her left upper extremity and she should have filed a new claim. This argument disregards the fact that claimant had amended her claim, even though it had referenced injury to the upper extremities, to specifically include the left upper extremity.

From the outset this has been a claim for upper extremity injuries. The application for hearing as well as the amended applications all claimed repetitive injuries continuing each and every work day. Claimant complained of bilateral pain but readily agreed the right was worse than her left. Her left upper extremity complaints are documented in the medical record but were initially not as severe as her right. Dr. Ketchum noted those complaints and recommended the use of a splint. Nonetheless, when the initial nerve conduction study did not confirm left carpal tunnel syndrome the doctor did not offer additional treatment. But over the next 11 months claimant continued to work and her left upper extremity symptoms increased and worsened. The fact that the left extremity problems progressed slowly does not require a separate claim to be filed.

The uncontroverted evidence establishes that claimant suffered work-related carpal tunnel injury to her left upper extremity. The Board affirms the ALJ's Order.

WHEREFORE, it is the finding of the Board that the Order of Administrative Law Judge Kenneth J. Hursh dated January 26, 2006, is affirmed.

IT IS SO ORDERED.

Dated this _____ day of April 2006.

BOARD MEMBER

c: James E. Martin, Attorney for Claimant
Kip A. Kubin, Attorney for Respondent
Kenneth J. Hursh, Administrative Law Judge
Paula S. Greathouse, Workers Compensation Director